

Introduced by Senator Machado

February 22, 2006

An act to amend Section 40202 of, and to add Section 40216 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1404, as introduced, Machado. Vehicles: parking violations: street cleaning.

(1) Existing law requires, if a vehicle is unattended during a parking violation, the peace officer or person authorized to enforce parking laws and regulations to securely attach to the vehicle a notice of parking violation setting forth specified information, including the violation, the date and time of the violation, and a statement printed on the notice indicating that the date of payment is required to be made not later than 21 calendar days from the date of citation issuance.

This bill would require the notice of parking violation also to include a statement that a violation of an ordinance for street cleaning will be cancelled if contested and the city in which the violation occurred cannot prove that the street upon which the violation occurred was cleaned on the date of the violation. The bill would require a parking violation of an ordinance for street cleaning to be cancelled if contested and the city in which the violation occurred cannot prove that the street upon which the violation occurred was cleaned on the date of the violation. The bill would require, upon request by a person for an initial review of a notice of parking violation by the issuing agency, the issuing agency to cancel the notice if the notice is for a violation of an ordinance for street cleaning, unless the issuing agency can verify that the street upon which the vehicle was found to be in violation of a street cleaning ordinance was

cleaned on the day of the violation. By imposing new duties or a local agency, the bill would impose a state-mandated local program.

The bill would contain legislative findings and declarations that the regulation of parking violations of an ordinance for street cleaning as specified is in need of uniform statewide regulation and constitutes a matter of statewide concern that is required to be governed solely by specified provisions of the Vehicle Code.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 40202 of the Vehicle Code is amended
2 to read:
3 40202. (a) If a vehicle is unattended during the time of the
4 violation, the peace officer or person authorized to enforce
5 parking laws and regulations shall securely attach to the vehicle a
6 notice of parking violation setting forth the violation, including
7 reference to the section of this code or of the Public Resources
8 Code, the local ordinance, or the federal statute or regulation ~~so~~
9 violated; the date; the approximate time ~~thereof~~ *of the violation*;
10 the location where the violation occurred; a statement printed on
11 the notice indicating that the date of payment is required to be
12 made not later than 21 calendar days from the date of citation
13 issuance; *a statement printed on the notice that a violation of an*
14 *ordinance for street cleaning will be cancelled if contested and*
15 *the city in which the violation occurred cannot prove that the*
16 *street upon which the violation occurred was cleaned on the date*
17 *of the violation*; and the procedure for the registered owner,
18 lessee, or rentee to deposit the parking penalty or, pursuant to
19 Section 40215, contest the citation. The notice of parking
20 violation shall also set forth the vehicle license number and

1 registration expiration date if they are visible, the last four digits
2 of the vehicle identification number, if that number is readable
3 through the windshield, the color of the vehicle, and, if possible,
4 the make of the vehicle. The notice of parking violation, or *a*
5 ~~copy—thereof of the notice of parking violation~~, shall be
6 considered a record kept in the ordinary course of business of the
7 issuing agency and the processing agency and shall be prima
8 facie evidence of the facts contained therein.

9 (b) The notice of parking violation shall be served by attaching
10 it to the vehicle either under the windshield wiper or in another
11 conspicuous place upon the vehicle so as to be easily observed by
12 the person in charge of the vehicle upon the return of that person.

13 (c) Once the issuing officer has prepared the notice of parking
14 violation and has attached it to the vehicle as provided in
15 subdivisions (a) and (b), the officer shall file the notice with the
16 processing agency. ~~Any~~ A person, including the issuing officer
17 ~~and any~~ *a* member of the officer's department or agency, or ~~any~~
18 *a* peace officer who alters, conceals, modifies, nullifies, or
19 destroys, or causes to be altered, concealed, modified, nullified,
20 or destroyed the face of the remaining original or ~~any~~ *a* copy of a
21 citation that was retained by the officer, for any reason, before it
22 is filed with the processing agency or with a person authorized to
23 receive the deposit of the parking penalty, is guilty of a
24 misdemeanor.

25 (d) If, during the issuance of a notice of parking violation,
26 without regard to whether the vehicle was initially attended or
27 unattended, the vehicle is driven away prior to attaching the
28 notice to the vehicle, the issuing officer shall file the notice with
29 the processing agency. The processing agency shall mail, within
30 15 calendar days of issuance of the notice of parking violation, a
31 copy of the notice of parking violation or transmit an electronic
32 facsimile of the notice to the registered owner.

33 (e) If, within 21 days after the notice of parking violation is
34 attached to the vehicle, the issuing officer or the issuing agency
35 determines that, in the interest of justice, the notice of parking
36 violation should be canceled, the issuing agency, pursuant to
37 subdivision (a) of Section 40215, shall cancel the notice of
38 parking violation or, if the issuing agency has contracted with a
39 processing agency, shall notify the processing agency to cancel
40 the notice of parking violation pursuant to subdivision (a) of

1 Section 40215. The reason for the cancellation shall be set forth
2 in writing.

3 If, after a copy of the notice of parking violation is attached to
4 the vehicle, the issuing officer determines that there is incorrect
5 data on the notice, including, but not limited to, the date or time,
6 the issuing officer may indicate in writing, on a form attached to
7 the original notice, the necessary correction to allow for the
8 timely entry of the notice on the processing agency's data
9 system. A copy of the correction shall be mailed to the registered
10 owner of the vehicle.

11 (f) Under no circumstances shall a personal relationship with
12 ~~any~~ *an* officer, public official, or law enforcement agency be
13 grounds for cancellation.

14 SEC. 2. Section 40216 is added to the Vehicle Code, to read:

15 40216. (a) Notwithstanding any other provision of law, if a
16 violation of an ordinance for street cleaning is contested, and the
17 city in which the violation occurred cannot prove that the street
18 upon which the violation occurred was cleaned on the date of the
19 violation, the notice of parking violation shall be cancelled.

20 (b) Notwithstanding Section 40215, upon request by a person
21 for an initial review of a notice of parking violation by the
22 issuing agency, the issuing agency shall cancel the notice if the
23 notice is for a violation of an ordinance for street cleaning, unless
24 the issuing agency can verify that the street upon which the
25 vehicle was found to be in violation of a street cleaning
26 ordinance was cleaned on the day of the violation. Acceptable
27 verification includes contractor records, street cleaning
28 equipment records, or a statement from a person employed or
29 contracted by the issuing agency.

30 (c) The Legislature finds and declares that the regulation of
31 parking violations of an ordinance for street cleaning provided in
32 this chapter is in need of uniform statewide regulation and
33 constitutes a matter of statewide concern that shall be governed
34 solely by this chapter.

35 SEC. 3. If the Commission on State Mandates determines that
36 this act contains costs mandated by the state, reimbursement to
37 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O